

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ROGER DEAN GILLISPIE,)	
)	
Plaintiff,)	JUDGE ROSE
)	MAGISTRATE MERZ
v.)	
)	CASE NO. 3:13-CV-416
CITY OF MIAMI TOWNSHIP, et al.,)	
)	<u>MOTION TO LIFT STAY</u>
Defendants.)	
)	

Now Comes Plaintiff Roger Dean Gillispie, by and through his attorneys, respectfully moving this Court to lift the stay of this action, and states:

1. On June 25, 2014, this Court ordered all further proceedings in this action “stayed pending completion of Ohio court adjudication of Plaintiff’s criminal case.” Dkt. 74.

2. On November 30, 2015, Hon. Judge Dankof dismissed the Indictment against Plaintiff on the basis that the state was unable to produce the missing *Brady* material.

3. The State filed a timely appeal of that order.

4. On November 10, 2016, the Second District Court of Appeals affirmed the dismissal of the indictment against Plaintiff, finding that Judge Dankof “correctly determined that [he] was required to follow the federal district court’s determination, upon habeas review, that a *Brady* violation had occurred due to the State’s failure to produce supplemental police reports to Gillispie,” and that in “light of the State’s statement that it cannot produce the supplemental police reports as

required by the district court, the trial court did not abuse its discretion in dismissing the indictment against Gillispie.” *State v. Gillispie*, 2016-Ohio-7688, ¶¶ 73-74. (Also filed on this Court’s docket, at Dkt. 97-1).

5. Despite this ruling, the State sought further review in the Ohio Supreme Court.

6. Today, July 26, 2017, the Ohio Supreme Court announced that the State’s appeal was not accepted for review. *See* Exhibit 1 (Ohio Supreme Court, Case Announcements, July 26, 2017).

7. The Ohio court criminal adjudication of Plaintiff’s criminal case is now over. Forever.

8. Accordingly, Plaintiff respectfully asks that this Court lift the stay of these proceedings.

9. In addition, and by way of clarification, Plaintiff’s view of where this case now stands is as follows:

(1) The Miami Township Defendants (Miami Township, Matthew Scott Moore, Tim Wilson, Thomas, Angel, Marvin Scothorn, John DiPietro, and Stephen Gray) have all Answered the complaint. (Dkts., 23, 36, 37, 40, & 43).

(2) Defendant Wolfe has filed a motion to dismiss, Dkt. 47, Plaintiff has filed a response, Dkt. 56. No reply has been filed.

(3) The Miami Township Defendants filed a motion for judgment on the pleadings or in the alternative to stay. This motion is now, in Plaintiff’s view, moot—these Defendants obtained the stay they sought and the

arguments they have made in the alternative seeking judgment on the pleadings are completely inapplicable now that the criminal case has ended completely.

(4) As concerns the General Motors defendants, the proceedings in the bankruptcy court concerning GM have been fully briefed but not argued or decided by the Bankruptcy Court for the Southern District of New York, for over a year. Aside from one of the largest bankruptcy dockets in U.S. history, the delayed disposition of the bankruptcy matter is also due in part to the fact that the criminal proceedings were then pending. Plaintiff is simultaneously seeking disposition of that matter now that the criminal case has resolved.

10. Accordingly, Plaintiff believes the Stay should be lifted and that the parties begin discovery in this matter without any further delay.

WHEREFORE, Plaintiff, requests this court lift the Stay this action, to set a Rule 26(f) conference, and Order discovery to commence.

RESPECTFULLY SUBMITTED,

/s/Mike Kanovitz
Mike Kanovitz
One of Plaintiff's Attorneys

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CERTIFICATE OF SERVICE

I, Mike Kanovitz, an attorney, certify that a copy of the foregoing was filed electronically on July 26, 2017, and that notice of this filing was sent that same day to the other parties to this case by operation of the Court's electronic filing system.

/s/ Mike Kanovitz